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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 ERIC L. DALE,

Case No. 3:20-cv-00031-MMD-CLB

7 Petitioner,

ORDER

8 v.

9 BRIAN E. WILLIAMS, *et al.*,

Respondents.

10  
11 Petitioner Eric L. Dale has submitted a *pro se* 28 U.S.C. § 2254 petition for writ of  
12 habeas corpus. (ECF No. 1-1.) His application to proceed in forma pauperis (ECF No. 1)  
13 is granted. The Court has reviewed the petition pursuant to Habeas Rule 4, and it will be  
14 docketed and served on Respondents.

15 A petition for federal habeas corpus should include all claims for relief of which  
16 Petitioner is aware. If Petitioner fails to include such a claim in his petition, he may be  
17 forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C.  
18 §2254(b) (successive petitions). If Petitioner is aware of any claim not included in his  
19 petition, he should notify the Court of that as soon as possible, perhaps by means of a  
20 motion to amend his petition to add the claim.

21 Petitioner has also submitted a motion for appointment of counsel (ECF No. 1-2).  
22 There is no constitutional right to appointed counsel for a federal habeas corpus  
23 proceeding. See *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*,  
24 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally  
25 discretionary. See *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), *cert. denied*,  
26 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469  
27 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are  
28 such that denial of counsel would amount to a denial of due process, and where the

1 petitioner is a person of such limited education as to be incapable of fairly presenting his  
2 claims. See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th  
3 Cir.1970). Here, Petitioner alleges that his counsel failed to properly investigate his  
4 competency and failed to present an insanity defense. Petitioner's petition appears to  
5 present his claims in a reasonably clear manner. However, in order to ensure due process  
6 in light of his possible mental health problems, the Court grants his motion for counsel.

7 It is therefore ordered that Petitioner's application to proceed in forma pauperis  
8 (ECF No. 1) is granted.

9 It is further ordered that the Clerk of Court detach, file, and electronically serve the  
10 petition (ECF No. 1-1) on Respondents.

11 It is further ordered that the Clerk of Court add Aaron D. Ford, Nevada Attorney  
12 General, as counsel for Respondents.

13 It is further ordered that the Clerk of Court detach and file Petitioner's motion for  
14 appointment of counsel (ECF No. 1-2).

15 It is further ordered that Petitioner's motion for appointment of counsel is granted.

16 It is further ordered that the Federal Public Defender for the District of Nevada  
17 ("FPD") is appointed to represent Petitioner.

18 It is further ordered that the Clerk electronically serve the FPD a copy of this order,  
19 together with a copy of the petition for writ of habeas corpus (ECF No. 1-1). The FPD has  
20 30 days from the date of entry of this order to file a notice of appearance or to indicate to  
21 the Court its inability to represent Petitioner in these proceedings.

22 It is further ordered that after counsel has appeared for Petitioner in this case, the  
23 Court will issue a scheduling order, which will, among other things, set a deadline for the  
24 filing of an amended petition.

25 DATED THIS 7<sup>th</sup> day of April 2020.



MIRANDA M. DU, CHIEF JUDGE  
UNITED STATES DISTRICT COURT